

A RESOLUTION AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO ENTER INTO A CONTRACT WITH FECHKO EXCAVATING, LLC, FOR THE BRIARWOOD FORCE MAIN AREA AND WASTEWATER PUMPING STATION IMPROVEMENTS, WAIVING COMPETITIVE BIDDING, AND DECLARING AN EMERGENCY

WHEREAS, Richfield Furnace Run Associates, LLC ("Furnace Run"), Water and Sewer, LLC ("Water and Sewer"), and the Village entered into a Development and Construction Agreement dated December 18, 2020, wherein the Village agreed to complete, among other things, certain sanitary sewer public improvements ("Sanitary Sewer Improvements" for the benefit of the New Briarwood Subdivision; and

WHEREAS, the Development Agreement was assigned, clarified, and amended pursuant to an Ancillary Agreement to Development and Construction Agreement executed by and between Pulte and the Village, dated July 28, 2021; and

WHEREAS, under the Development Agreement and Ancillary Agreement, the Village was required to commence and complete the Sanitary Sewer Improvements by certain deadlines, which cannot be met without the Village acting immediately; and

WHEREAS, the Village and Pulte entered into a Reimbursement Agreement that extends the deadlines for the Village to commence and complete the Sanitary Sewer Improvements, but due to global supply chain issues, necessary components with extremely long lead times, must be ordered now in order to ensure the viability of the project; and

WHEREAS, because of the significant and potentially detrimental timing issues, the Village approached Fechko Excavating, LLC, ("Fechko") who is already performing work at the development site as Pulte's contractor, to obtain a proposal for performing the Sanitary Sewer Improvements for the Village; and

WHEREAS, Fechko submitted a proposal dated October 28, 2021, which is attached hereto and incorporated herein by reference as Exhibit A, for the Sanitary Sewer Improvements in an amount of \$1,818,037.32, which includes the purchase of the long-lead time components for the project; and

WHEREAS, the Village Engineer reviewed Fechko's \$1,818,037.32 proposal, which is significantly less than the \$2,200,000.00 engineer's estimate prepared by Arcadis on February 1, 2021, and has determined that Fechko's proposal is reasonable and in accordance with the approved contract documents and plans; and

WHEREAS, the Village received a reimbursable grant from the Northeast Ohio Regional Sewer District ("NEORS") in the amount of \$891,500.00 that will be applied toward payment of the project; and

WHEREAS, competitively bidding the Sanitary Sewer Improvements project will adversely impact the schedule and thereby cause irreparable harm to Pulte's home construction and occupancy, as well as the NEORS D grant and the Village's investment of time and resources into the project ; and

WHEREAS, Council determines that it is in the best interests of the Village and the overall project schedule to waive competitive bidding and authorize the Mayor and Director of Finance to enter into a contract with Fechko for the Sanitary Sewer Improvements.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Richfield, County of Summit, State of Ohio that:

SECTION 1. The Mayor and the Director of Finance are authorized and directed to enter into an agreement with the Fechko Excavating, LLC in an amount not to exceed \$1,960,037.32, which includes Fechko's proposal of \$1,818,037.32 and a cash allowance of \$37,000.00 and contingency allowance of \$105,000.00.

SECTION 2. The requirements of competitive bidding are waived pursuant to Section 141.03(g) of the Village's Codified Ordinances.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare and for the further reason that it is immediately necessary to commence the project to ensure its viability; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 11-3-2021

[Signature]
President of Council

[Signature]
Mayor

Dated: 11/3/2021

ATTEST: [Signature]
Clerk of Council